

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Glenn Hoskinson
Department of Commerce, Community, and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor *AS*
465.4081

DATE: December 20, 2021

RE: Filed Permanent Regulations: Marijuana Control Board
Marijuana Control Board regulations re: civil fine schedule (3 AAC 306.840(a))

Attorney General File: 2019200187
Regulation Filed: 12/20/2021
Effective Date: 1/19/2022
Print: 241, April 2022

cc with enclosures: Joseph Felkl, Department of Law
Judy Herndon, LexisNexis
Jane P. Sawyer, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF MARIJUANA CONTROL BOARD

The attached two pages of regulations, dealing with marijuana fine schedule, are certified to be a correct copy of the regulation changes that the Marijuana Control Board adopted at its October 26-28, 2021, under the authority of AS 17.38.121 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Marijuana Control Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: Nov 4, 2021



Glen Klinkhart, Director

April Simpson for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

December 20, 2021 at 3:19 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: January 19, 2022.

Register: 291, April 2022.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



Kevin Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

~~(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)~~

3 AAC 306.840 is amended to read as follows:

3 AAC 306.840. Civil Fines. (a) The board may, in addition to any other penalties imposed under this chapter, impose a civil fine in accordance with the Marijuana Control Board fine schedule dated March 23, 2021, and adopted by reference, on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board;

(2) the amount imposed in the fine schedule identified in ^{(a) of this section; or} paragraph (a);

(3) if applicable because of the seriousness of the conduct and the related facts;

(A) \$10,000 for the first violation;

(B) ~~(\$30,000)~~ ^[(3)] \$30,000 for the second violation; or

(C) ~~(\$50,000)~~ ^[(4)] \$50,000 for the third or subsequent violation. (Eff. 2/21/2016, Register

217; am 1 / 19 / 2022, Register 241)

Authority:	AS 17.38.010	AS 17.38.131	AS 17.38.200
	AS 17.38.070	AS 17.38.150	AS 17.38.900

AS 17.38.121

AS 17.38.190

« initial copy »

Editor's note: Copies of the Marijuana Control Board fine schedule dated March 23, 2021, adopted by reference in 3 AAC 306.840, are available for inspection at the Alcohol and Marijuana Control Office in Anchorage. The Marijuana Control Board fine schedule dated March 23, 2021, is also available on AMCO's website
<https://www.commerce.alaska.gov/web/amco/>

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: December 15, 2021

File No.: 2019200187

Tel. No.: 465-3600

From: Rebecca C. Polizzotto
Chief Assistant Attorney General
and Regulations Attorney
Legislation, Regulations, and
Legislative Research Section

Re: Marijuana Control Board regulations
re: civil fine schedule (3 AAC
306.840(a))

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Marijuana Control Board after the close of the public comment period. The regulations adopt by reference a schedule of civil fines for violations of AS 17.38 or 3 AAC 306.

The July 30, 2021 public notice and the November 4, 2021 certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

RCP:scw

Cc w/ enclosure: Jane Sawyer, Regulations Contact
Alcohol and Marijuana Control Office
Department of Commerce, Community and Economic Development

Joan Wilson, Senior Assistant Attorney General
Commercial, Fair Business and Child Support Section
Department of Law

NOTICE OF PROPOSED CHANGES ON FINE SCHEDULE
IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulation changes in 3 AAC 306 of the Alaska Administrative Code, dealing with fine schedule, including the following:

3 AAC 306.840 proposes to insert language to adopt by reference the Marijuana Control Board fine schedule date March 23, 2021.

You may comment on the proposed regulation changes and on the fine schedule dated March 23, 2021, itself, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage AK 99501. Additionally, the Marijuana Control Board will accept comments by email at amco.regs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than 4:30pm on September 28, 2021.**

You may submit written questions relevant to the proposed action to the Alcohol and Marijuana Control Office at 550 West 7th Avenue, Suite 1600, Anchorage, AK 99501 or to amco.regs@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Alcohol and Marijuana Control Office will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and AMCO website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Alcohol and Marijuana Control Office at amco.regs@alaska.gov or (907) 269-0490 not later than August 31, 2021, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes and the Marijuana Control Board fine schedule is available on the Alaska Online Public Notice System and by contacting the Alcohol and Marijuana Control Office at amco.regs@alaska.gov or (907) 269-0490.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 17.38.010; AS 17.38.070; AS 17.38.121; AS 17.38.131; AS 17.38.150; AS 17.38.190; AS 17.38.200; AS 17.38.900

Statutes being implemented, interpreted, or made specific: AS 17.38.070; AS 17.38.200

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Alcohol and Marijuana Control Office keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Marijuana Control Board notices of proposed regulation changes. To be added to or removed from the list, send a request to the AMCO office at amco.regs@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: July 22, 2021



Jane P. Sawyer, Regulations Specialist
Marijuana Control Board

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Marijuana Control Board
2. General subject of regulation: Fine Schedule
3. Citation of regulation (may be grouped): 3 AAC 306.840
4. Department of Law file number, if any: 2019200187

5. Reason for the proposed action:

- Compliance with federal law or action (identify): _____
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify): _____
- Development of program standards
- Other (identify): _____

6. Appropriation/Allocation: DCCED/Alcohol and Marijuana Control Office

7. Estimated annual cost to comply with the proposed action to:

A private person: not to exceed \$50,000 per violation
Another state agency: none known
A municipality: none known

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>22</u>	Subsequent Years
Operating Cost	<u>\$ 0</u>	<u>\$ 0</u>
Capital Cost	<u>\$ 0</u>	<u>\$ 0</u>
1002 Federal receipts	<u>\$ 0</u>	<u>\$ 0</u>
1003 General fund match	<u>\$ 0</u>	<u>\$ 0</u>
1004 General fund	<u>\$ 0</u>	<u>\$ 0</u>
1005 General fund/ program	<u>\$ 0</u>	<u>\$ 0</u>
Other (identify)	<u>\$ 0</u>	<u>\$ 0</u>

9. The name of the contact person for the regulation:

Name: Jane P. Sawyer
Title: Regulations Specialist
Address: 550 West 7th Ave., Ste. 1600, Anchorage, AK 99501
Telephone: 907-269-0490
E-mail address: jane.sawyer@alaska.gov

10. The origin of the proposed action:

- Staff of state agency
- Federal government
- General public
- Petition for regulation change⁷
- Other (identify): Marijuana Control Board

11. Date: July 26, 2021

Prepared by: 
Name (printed): Jane P. Sawyer
Title (printed): Regulations Specialist
Telephone: 907-269-0490

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

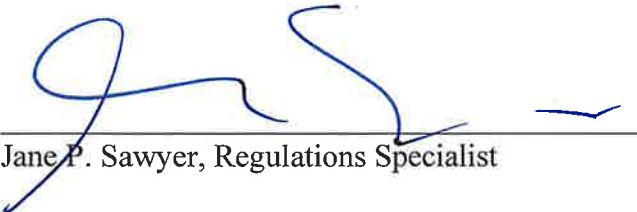
I, Jane P. Sawyer, Regulations Specialist, of the Marijuana Control Board, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 306.840 regarding marijuana fine schedule has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

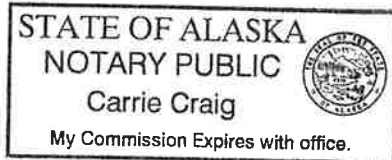
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

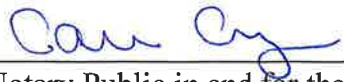
Date: Nov. 4, 2021



Jane P. Sawyer, Regulations Specialist

Subscribed and sworn to before me at Anchorage, Alaska, on Nov 4, 2021.





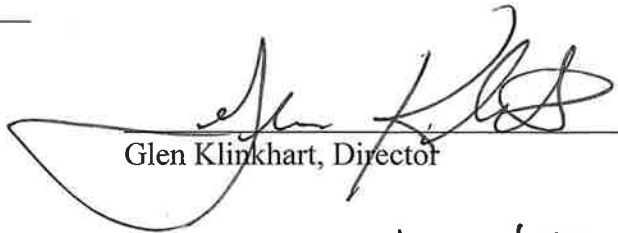
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

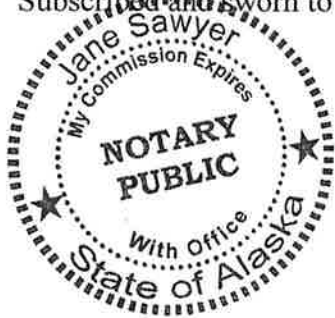
I, Glen Klinkhart, Director for the Marijuana Control Board, being duly sworn, state the following:

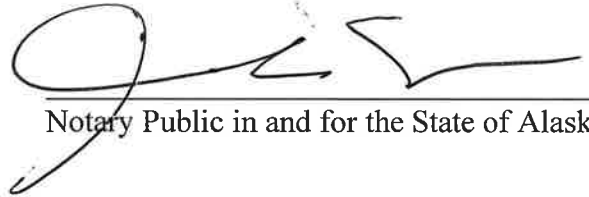
In compliance with AS 44.62.215, the Marijuana Control Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Marijuana Control Board regulation on marijuana fine schedule.

Date: Nov 4, 2021


Glen Klinkhart, Director

Subscribed and sworn to before me at Anchorage, Alaska, on Nov. 4, 2021.




Notary Public in and for the State of Alaska

2019 200 187

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 100867 ST OF AK/ALCOHOL AND MARIJUANA CONTROL BOARD, ANCHORAGE, AK 99501

Order #: W0024112

Cost: \$383.5

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Adam Garrigus being first duly sworn on oath deposes and says that she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

07/30/2021

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed Adam Garrigus

Subscribed and sworn to before me
this 2nd day of August 2021.

Jada L. Nowling
Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

7/14/2024

NOTARY PUBLIC
JADA L. NOWLING
STATE OF ALASKA
MY COMMISSION EXPIRES July 14, 2024

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Date: July 22, 2021

By: /s/ Jane P. Sawyer,
Regulations Specialist
Marijuana Control Board

AMCO

AUG 30 2021

AFFIDAVIT OF BOARD ACTION

I, Glen Klinkhart, Director for the Marijuana Control Board, being duly sworn, state the following:

The attached motion dealing marijuana fine schedule was passed by the Marijuana Control Board during its October 26-28, 2021, meeting.

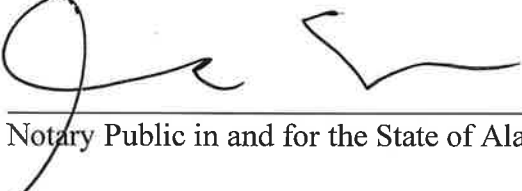
Date: Nov 4, 2021



Glen Klinkhart, Director

Subscribed and sworn to before me at Anchorage, Alaska, on Nov. 4, 2021.





Notary Public in and for the State of Alaska



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

Marijuana Control Board Meeting October 26-28, 2021, Excerpt from Unapproved Minutes

Fine Schedule

TAB 98

Status: public comment closed September 28, 2021. Comments were received.

Potential Board Actions: board to discuss at meeting

*Director Klinkhart summarizes the background. (Discussion). **Bruce Schulte moves to adopt the project as presented. Christopher Jaime seconds. No further discussion. Motion passes 4-0.***